

## REMARKS

There are currently 71 claims pending in the instant application. The Office Action has issued a restriction requirement to one of the following alleged inventions under 35 USC 121:

Group I. Claims 1 - 56, drawn to a building automation system, classified in class 340, subclass 286.02

Group II. Claims 57 - 66, drawn to a building automation system controller responsive to software parameters exceeding limits, classified in class 700, subclass 90.

Group III. Claims 67 - 71, drawn to a control board responsive to a building automation system controller, classified in class 700, subclass 33.

The Office action has stated that the aforementioned claim groups constitute patently distinct invention because the invention claimed in Group I and the inventions claimed in Groups II-III are allegedly related as combination and sub-combination.

### APPLICANT'S ELECTION UNDER 37 CFR 1.143

Although, as stated below, applicant does traverse the restriction requirement set forth in the First Office Action, **applicant does herein make, in accordance with 37 CFR 1.143, a provisional election of the claims of Group I (1 - 56) as the claims to be prosecuted within this application, should the restriction requirement become final.**

### APPLICANT'S REQUEST FOR RECONSIDERATION AND WITHDRAWAL OF THE RESTRICTION REQUIREMENT IN ACCORDANCE WITH 37 CFR 1.143

The Office Action, in support of the restriction requirement, cites MPEP Section 806.05 ( c ) which states:

To support a requirement for restriction >between combination and subcombination inventions<, both two-way distinctness and reasons for insisting on restriction are necessary, i.e., >there would be a serious search burden as evidenced by< separate classification, status, or field of search. See MPEP § 808.02.

The inventions are distinct if it can be shown that a combination as claimed:

(A) does not require the particulars of the sub-combination as claimed for patentability (to show novelty and unobviousness), and

(B) the subcombination can be shown to have utility either by itself or in \*\*>another materially< different \*>combination<.

When these factors cannot be shown, such inventions are not distinct.

The following examples are included for general.....

In regard to subsection (A) of MPEP 806.05 ( C ), applicant respectfully submits that the particulars of the subcominations stated in the Office Action are indeed necessary, not only for the patentability of the invention recited in applicant's claims 1 - 56, but such particulars are, in fact, necessary for the functioning thereof.

The Office Action thus alleges that the combination recited in applicant's Group I (represented herein by applicant's claim 1):

1. A remotely monitored and controlled building automation system comprised of:

a BAS controller especially configured and adapted to generate and transmit a simplified BAS alarm to an offsite location in response to reception of sensor data indicating existence of a monitored condition beyond acceptable parameters, the BAS controller also being especially configured and adapted to provide two way communication of detailed BAS sensor and control data between the controller and a remote, offsite location;

at least one remote node having a processor, power source and at least one sensor especially configured and adapted to monitor building data, and a communications interface enabling data transmission between the node and BAS controller;

a security monitoring center having a communications interface especially configured and adapted to monitor for and receive the simplified BAS alarm generated by the BAS controller, and further configured and adapted to re-transmit

the simplified BAS alarm to a server;

a BAS web server having a communications interface, especially configured and adapted to receive the simplified BAS alarm transmitted by the security monitoring center and thereafter display same at a website operated, maintained and controlled by the BAS web server;

a BAS website especially configured and adapted to receive the simplified BMS alarm transmitted by the BAS web server and to thereafter transmit same to a BAS dealer, said website also configured and adapted to provide the dealer with a portal providing two-way communication with the BAS controller;

a BAS dealer having a computer including a communications interface, especially adapted and configured to enable two-way communications between the dealer and the BAS web site thereby enabling the dealer to receive the simplified BAS alarm displayed upon, and transmitted by the BAS website as well as to utilize two way communication with the BAS controller via the portal provided by the BAS website.

**does not require the particulars recited in subcombination Group II represented herein by applicant's claim 57:**

57. A BAS controller especially configured and adapted to generate a simplified BAS alarm in response to reception of sensor data indicative of existence of a monitored condition exceeding programmed BAS software parameters and to provide two way communication of detailed BAS data between the BAS controller and an offsite location.

**or the particulars recited in subcombination Group II represented herein by applicant's claim 57:**

67. A security control board especially configured and adapted to receive and recognize a signal generated by a BAS

controller, in response to reception by the controller of sensor data indicating the existence of a monitored condition exceeding acceptable parameters, as a simplified BAS alarm and thereafter re-transmit same to an offsite security monitoring center.

for patentability.

Applicant's claimed invention, as recited within the first ten (10) lines of applicant's claim 1 includes:

A remotely monitored and controlled building automation system comprised of:

a BAS controller especially configured and adapted to generate and transmit a simplified BAS alarm to an offsite location in response to reception of sensor data indicating existence of a monitored condition beyond acceptable parameters, the BAS controller also being especially configured and adapted to provide two way communication of detailed BAS sensor and control data between the controller and a remote, offsite location;

The above-cited section of applicant's claim 1 comprises an essential element of said claim, an element required for applicant's invention to function as disclosed and claimed. Claim 57, the only independent claim of applicant's claims identified in the Office Action as "Group II" recites essentially the same BAS controller required in each and every one of the claims of applicant's Group I claims. Since the claims identified within the Office Action as applicant's Group I (claims 1 - 56) all require the BAS controller recited and required in each and every one of applicant's "Group II" claims (57 - 66) –the subcombination– applicant respectfully submits that applicant's combination, as claimed in Group I does, indeed, require the subcombination recited in applicant's Group II claims. It should also be noted that both applicant's claim 1 and 31, the only independent claims within Group I, both require essentially the same BAS controller as recited and required within the Group II claims.

In view of the above, applicant traverses the Office Action's restriction requirement wherein the applicant's claims 1 - 56 (Group I) and applicant's claims 57

- 66 (Group II) have been alleged to be separate and distinct inventions requiring election of one group for prosecution in the present application.

Attached hereto, please find a complete listing (11 sheets) of all claims pending in the present application (prior to finalization of the restriction requirement). It is believed that no fee is due upon the filing of this amendment.

Respectfully submitted,

A handwritten signature in cursive script, reading "Richard L. Strauss", is written over a horizontal line.

Richard L. Strauss (Reg. No. 34,445)  
2492 Oceanside Road  
Oceanside, New York 11572  
(516) 764-2285  
Fax - (516) 764-1034